

REMARKS

By this amendment, applicants have amended claims 1, 4, 9-13, 15, 16 and 17. Claims 2, 3 and 8 were previously canceled and claims 14 and 18 are canceled in the current amendment. Accordingly, claims now pending are claims 1, 4-7, 9-13 and 15-17, as amended.

Claim 1 has been most extensively amended to add language further defining, in the aqueous phase, the inorganic dispersion stabilizer (supported at page 12, lines 15-16), the organic stabilizer (supported at page 12, line 28 – page 13, line 20), and polymeric stabilizers (page 13, line 21 – page 14, line 4); and, as structurant, organic structurants, (pages 10, lines 20 to 23) and inorganic structurants (page 10, lines 5 to 10). Applicants have further added language defining droplet size of the structured oil phase (page 11, lines 24-25) and deleted language relating to “skin compatible” oil.

Applicants have further amended the claims to conform to changes incorporated in claim 1 (e.g., claims 14 and 18 are now canceled). Further, claims 15-17 have been amended to recite process rather than composition language.

The claim amendments have been made in a sincere effort to address the various rejections under 35 USC §112.

In particular, it is first noted that the oils deposited by the wet-skin compositions in the process of the invention are selected from triglycerides, modified triglycerides or mixtures thereof (as per previous amendments).

The key to the invention is the use of finely divided (size below about 25 microns) oil structurant particles which forms a structuring network in the oil. That is, it is not critical exactly what the structurants are as long as they can be finely divided in the oil and structure the oil. Even so, applicants have amended the claim to recite various organic and inorganic structurants.

A further key to the invention is that the structured oil phase form an oil and water emulsion (of droplet size about 1 to 500 microns) in the aqueous/water phase wherein the aqueous phase comprises a dispersion stabilizer wherein the dispersion stabilizer has MW less than 1000 and can form a network that immobilizes the structured oil. Again, while the criticality is the size of the stabilizer and ability to immobilize, in an effort to expedite prosecution, applicants have recited specific stabilizers which can be used.

It is the combination of specifically structured oil (and oil is specific as well), dispersed in an aqueous emulsion and immobilized with specific dispersion stabilizer, which provides unexpected compositions with enhanced skin retention, low irritation and low foam.

Further, the invention relates to a process wherein (1) the structured oil phase and aqueous phase are directly mixed (e.g., rather than dispersing oil first in a hydrogel); and (2) the mixture is passed through a screen to form oil drops of 20 to 500 microns.

In short, applicants have defined certain properties (e.g., specific oil; specific size and form of oil structurant; specific immobilization of structured oil; specific processing) which allows the composition to have enhanced retention on skin etc. While broadly disclosing components which will achieve these aims, it is unfair to require extremely specific component information since a competitor could perhaps tinker with a component, knowing what applicants have disclosed, to escape literally from the claims,

while achieving substantially the same, previously unknown results. Applicants believe the insertion of specific families of components which helps yield desired results clearly defines the invention and is something one skilled in the art could readily understand (without undue experimentation).

In view of these amendments and comments above, it is respectfully requested that the Examiner withdraw all rejections under 35 USC §112,

With regard to the rejection under 35 USC §102(b) over U.S. Patent No. 5,759,969 to Tsaur, the hydrogels of Tsaur are completely unrelated technology to the structured oil components which are dispersed and immobilized in aqueous phase. The Tsaur reference, for example, simply does not teach or disclose specific finely divided solid particles serving to structure oil (specific oils); or the use of dispersion stabilizer of size less than 1000 Daltans to immobilize a specifically, structured oil in aqueous phase. As noted, the mechanism for entrapping and delivering oil are completely different. The Tsaur reference further fails to disclose or suggest directly mixing a structured oil phase and aqueous phase comprising dispersion stabilizer; or of passing the resultant mixture through a screen.

In view of the fundamental differences in compositions and processing, it is respectfully requested that the rejection over Tsaur et al. be withdrawn.

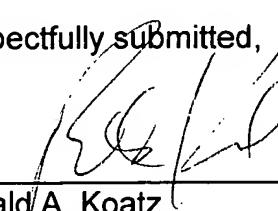
Finally with regard to the double patenting rejection applicants enclose:

- (1) a copy of the Terminal Disclaimer which was mailed on November 12, 2003; and
- (2) a copy of the postcard showing the mailing of the Amendment and Terminal Disclaimer, as well as showing receipt by the Patent Office (marked November 14, 2003).

In view of amendment and discussion above, including re-submission of Terminal Disclaimer, it is respectfully requested that the Examiner reconsider, withdraw all rejections of the claims and allow claims now pending, as amended.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,



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